



ARIZONA DEPARTMENT OF ADMINISTRATION  
STATE PROCUREMENT OFFICE

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## STANDARD OPERATING PROCEDURE

**TITLE** Contractor Compliance with the Arizona Legal Workers Act  
**REVISION** 2.  
Replaces and supersedes Contractor/Subcontractor Employment Record Verification  
"E.O. 2005-30"  
**NO.** 1.5.1  
**EFFECTIVE DATE** October 1, 2008

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### 1. Summary

#### 1.1 Background

The Arizona Legal Workers Act prohibits employers from knowingly or intentionally employing unauthorized aliens and all Arizona employers must use E-Verify to confirm the employment eligibility of new hires effective January 1, 2008. It is a violation of A.R.S. § 41-4401 Government procurement; E-verify requirement for an Arizona State governmental entity to award a contract or subcontract to obtain the labor of a person whom the employer knows is not legally authorized to work in the United States of America.

By Governor's Executive Order No. 2005-30 and in accordance with A.R.S. § 41-4401, the State must perform random reviews of contracts to ensure that state contractors and their subcontractors are complying with their warranties to comply with federal and state immigration laws and regulations. This requirement is effective October 1, 2008.

#### 1.2 Purpose

The purpose of this procedure is to establish a process for random verification of employment records of contractors and subcontractors to assure that contractors are complying with State and Federal laws regarding the hiring of individuals who are not authorized to work in the United States of America.

This Standard Operating Procedure (SOP) provides the format and approach for processing, tracking, reporting, and filing "State Contractor/Subcontractor Employment Record Verifications."

#### 1.3 Application

1.3.1 This procedure applies to the Arizona State Procurement Office (SPO) and Arizona governmental agencies with delegated

procurement authority from the State Procurement Administrator and which meet the definition of Government Entity;

1.3.1.1 The procedure applies to all delegated agencies with delegations to solicit and award formal contracts of more than \$50,000 and all Strategic Contracting Centers (SCC). The state maintains a list of all SCCs and Agencies with delegation above \$50,000.

1.3.1.2 Except the procedure does not apply directly to Agencies with limited delegations of \$50,000 or less for which SPO establishes the contracts and will provide the necessary information.

## 1.4 Definitions

- **Contract:** all types of government entity agreements, regardless of what they may be called, for procurement of services in Arizona.
- **Contractor:** any person who has a contract with a government entity.
- **Government Entity:** this state and any political subdivision of this state that receives and uses tax revenues.
- **Individual contracts:** contracts awarded to one contractor as well as individual multiple contracts established under a single solicitation. All contracts awarded under a single contract number (i.e. contract number 123 awarded to company A, company B, and company C, = 3).
- **Set:** a list of randomly selected contractors to be issued "State Contractor/Subcontractor Employment Record Verifications" forms
- **State Agency:** Any department, commission, council, board, bureau, committee, institution, agency, government corporation or other establishment or official of the executive branch or corporation commission of the State subject to the provisions of the Arizona Procurement Code.

## 2. Procedures

### 2.1 Schedules/ Randomly Selected Lists

2.1.1 The State Procurement Office will identify one set of random reviews per fiscal quarter:

2.1.1.1 Schedules may be modified by the State Procurement Administrator.

2.2.1 Sets of contracts selected for random review shall represent 10 percent of the individual contracts (those valued at \$50,000 or more) established in the immediate prior fiscal quarter.

2.2.2 Sets of contracts shall be randomly selected from contract lists supplied by individual agencies that have been compiled into a comprehensive list by SPO each quarter.

- 2.2.3 Sets may represent a smaller or larger percentage based on:
  - 2.2.3.1 the number of individual contracts under a respective parent contract;
  - 2.2.3.2 time availability and staff resources;
  - 2.2.3.3 the need for additional contracts to assure that all agencies are fairly represented;
  - 2.2.3.4 the need to maintain a statistical level of confidence; or
  - 2.2.3.5 as directed by the State Procurement Administrator.
- 2.2.4 The SPO Compliance Officer randomly selects the set of contracts to be subject to the verification process using the online random number generator, Research Randomize, located at <http://www.randomizer.org/form.htm>.

## 2.2 Roles and Responsibilities

- 2.2.1. **State Procurement Office (SPO) staff responsibilities:**
  - 2.2.1.1. A SPO Compliance Officer is assigned as the lead and shall be responsible for the overall process of verifying and reporting contractor assurances of compliance with their contractual warranties regarding legal employment. Where this procedure references SPO, the reference is specifically to the Compliance Officer with the assigned responsibility for this procedure.
- 2.2.2. **The SPO-Compliance Officer:**
  - 2.2.2.1. Compiles a comprehensive list of quarterly random selections of state contracts over \$50,000 in an Excel spreadsheet;
  - 2.2.2.2. Creates and distributes the outgoing randomly selected set of contracts to be verified to each Agency (ref. sections 2.1.2);
  - 2.2.2.3. Follows up with state agencies verification activities and tracks progress and receipt of contractors' verification responses;
  - 2.2.2.4. Performs follow up actions to ensure completion of verification requirements;
  - 2.2.2.5. Submits a quarterly report to the State Procurement Administrator no later than 45 days after the end of each fiscal quarter; and
  - 2.2.2.6. Provides consultation to contractors and Agency personnel regarding questions relating to employment verification requirements and E.O. 2005-30.
- 2.2.3. The **Administrative Assistant** for SPO Compliance and Training will provide clerical support as needed to perform these processes.

- 2.2.3.1. Files and maintains all completed correspondence, data and reports in appropriate employment verification files.
- 2.2.3.2. Files relevant correspondence in Agency files.
- 2.2.4. **Agency Chief Procurement Officers (CPO)** have responsibility for tracking, reporting and following-up or taking action with non-compliant contractors as detailed below.
  - 2.2.4.1. Where this procedure references Agency or Agencies, the reference is specifically to the Chief Procurement Officer, his or her designee, or other individual with the assigned responsibility for this procedure in the Agency.
  - 2.2.4.2. Each Agency shall submit a list of all individual contracts established by the Agency in the fiscal quarter.
    - 2.2.4.2.1. The lists are due from each Agency no later than 21 days following the end of the calendar quarter: April 15; July 15; October 15; and January 15;
    - 2.2.4.2.2. The lists shall be submitted to the SPO Compliance Officer in electronic format on the forms provided in this SOP;
  - 2.2.4.3. Issue notices to the selected contractors or subcontractors on Agency letterhead with language provided in Attachment 1;
  - 2.2.4.4. Track responses to the notices (See 2.4.1.);
  - 2.2.4.5. Submit a report of verification activities results to SPO on the "State Contractor/Subcontractor Employment Verification Excel Reporting Form" (See 2.3.).

## 2.3 State Contractor/Subcontractor Employment Verification Excel Reporting Form

- 2.3.1. SPO shall process, track, report, and maintain a centralized record of contractor employment verifications on the "State Contractor/Subcontractor Employment Verification Excel Reporting Form."
- 2.3.2. The "State Contractor/Subcontractor Employment Verification Excel Reporting Form" shall be located on the SPO "J" (Group) drive and be accessible by SPO staff and the State Procurement Administrator. The Database shall, at a minimum, contain information under the headers specified in Figure – 1. The same format shall be used for transmittal of lists, sets and to track verification efforts, and responses from the agencies.
- 2.3.3. The "State Contractor/Subcontractor Employment Verification Excel Reporting Form" shall be the basis of communicating lists of contractors to be verified by Agencies and reporting verification status to the State Procurement Administrator.

- 2.3.4. An electronic version of the data base shall be provided to agencies to initiate the listing and reporting process. The Excel format is also available on the SPO website under Agency & Purchasing Cooperative Resources/Compliance.
- 2.3.5. Agencies shall submit their lists of new contracts established each quarter by e-mail no later than 21 days after the end of each fiscal quarter. These may accompany the quarterly reports of contractor compliance. The list of new contracts includes contracts renewed after October 1, 2008.
- 2.3.6. Within 45 days after the end of each fiscal quarter, the SPO Compliance Officer sends the randomly selected comprehensive set to the agencies.

**Figure - 1 State Contractor/Subcontractor Employment Verification Excel Reporting Form**

**Agency Contact Information**

Agency Name:		Agency Contact Person:		Phone:	E-mail:
Submittal Date:					

**Agency Contract List Reporting Data**

Select / Date	Contract Number	Company Name	Contact Person	Contact E-mail	Address	City Zip	State	Phone	Fax
	1 <sup>st</sup> Notice sent (21 days)	2 <sup>nd</sup> Notice sent (14 days)	3 <sup>rd</sup> Notice sent (14 days)	Verification Received	Action Taken		Compliance Status		

**2.4 Agency Documentation**

- 2.4.1. The Agency shall:
  - 2.4.1.1. Send a letter (21 day notice) with verification forms to each of the Agency's contractors identified on the randomly selected comprehensive list. The initial 21 day notice shall be followed by a second letter (35 day notice) and third and final (49 day notice) if a contractor has not complied with previous letters. (**Note:** *The first notice allows 21 days for a contractor response; the 2<sup>nd</sup> notice allows an additional 14 days for the contractor to respond, for a total of 35 days; the 3<sup>rd</sup> notice allows yet another 14 days for a total of 49 days for the contractor to respond to all three notices.*);

- 2.4.1.2. Log the dates that verification forms are sent to contractors in appropriate database sections;
- 2.4.1.3. Log contractor response dates in appropriate database section (on dates received);
- 2.4.1.4. Prepare, log, and, send all second and final notices to non-responding contractors (within 5 days of notice deadlines);
- 2.4.1.5. Print and file contractor *State Contractor Employment Record Verification Forms* and completed *Employee Verification Worksheets* in contract files (within 10 days of receipt);
- 2.4.1.6. Take appropriate action with non-compliant contractors and so note on the *State Contractor/Subcontractor Employment Verification Excel Reporting Form*; and
- 2.4.1.7. Prepare and submit the *State Contractor/Subcontractor Employment Verification Excel Reporting Form* to SPO no later than 21 days after the end of each fiscal quarter.

## **2.5 Addressing Issues of Contractor Non-Response or Non-Compliance**

- 2.5.1. The Agency shall review incoming documents from contractors and;
  - 2.5.1.1. If a Contractor fails to respond to a letter/notice, the Agency shall note such failure on the *State Contractor/Subcontractor Employment Verification Excel Reporting Form*;
  - 2.5.1.2. If the contractor fails to respond to all three letters/notices the CPO shall, at a minimum, complete a vendor deficiency report.
  - 2.5.1.3. The Agency may take additional action, up to and including termination of the contract as is appropriate for the situation.
  - 2.5.1.4. If a contractor's response on the contractor *State Contractor Employment Record Verification Forms* or the completed *Employee Verification Worksheet* indicates non-compliance with State and Federal laws regarding the hiring of individuals who are not authorized to work in the United States of America, the Agency shall:
    - 2.2.1.4.1. Complete a vendor deficiency report; and
    - 2.2.1.4.2. Submit the report and copies of the contractor's *State Contractor Employment Record Verification Forms* or the completed *Employee Verification Worksheet* to the Arizona Attorney General's Administrative Law Section, Financial Division.

- 2.2.1.4.3. The Agency may take additional action, up to and including termination of the contract, as the Agency deems to be in the best interests of the state.

### **3. Document and Form Templates**

- 3.1 The attached template cover letters/notices and verification form shall be used:
- 3.1.1. Sample Immigration verification cover letter for first (21 days), second (35 days) and third (49 days) notices. The letter/notice should be placed on Agency letterhead. (See Attachment 1.)
  - 3.1.2. Arizona Legal Workers Act Verification Form – (attach to all cover letters). (See Attachment 2.)
- 3.2 The templates may be found on, and downloaded from, the SPO website under SPO - Agency & Purchasing Cooperative Resources (<http://azdoa.gov/spo/agency-resources-1>).

#### **Effective**

This Standard Operating Procedure is hereby effective the first day of October 2008, unless otherwise revised or repealed.

#### **Signature**



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Jean A. Clark, CPPO, C.P.M., CPPB, CPM  
State Procurement Administrator

## Attachment 1: Compliance – Arizona Legal Workers Act verification cover letter

### NOTICE – PLACE ON AGENCY LETTERHEAD

Sub: Contract Number

Re: State Contractor Employment Record Verification Requirement - A.R.S. §41-4401 *{Note whether this is the First (21 days), Second (35 days), or Third Notice (49 days).}*

Dear **<Contact Name>**:

The Arizona Procurement Code, Employee Sanctions, A.R.S. §41-4401 requires compliance with Federal immigration laws by State employers, State contractors, and State subcontractors.

In order to comply with those portions of A.R.S. §41-4401 that pertain to State contractors and subcontractors, we request that you complete and return the attached State Contractor Employment Record Verification Form and Employee Verification Worksheet no later than *(insert due date. For first notice allow 21 days; for 2<sup>nd</sup> notice allow additional 14 days, for a total of 35 days; for 3<sup>d</sup> notice allow yet another 14 days for a total of 49 days for the contractor to respond.)*

Completed forms may be sent via mail to *(insert your mail address)* at the address above or via facsimile to: *(insert your fax number)*. If electing to fax, please also mail the original documents.

Questions concerning this requirement should be directed to *(insert contact name and telephone number)* (xxx-xxx-xxxx). We look forward to your response and thank you for your continued support of the State's Procurement Program.

Respectfully,

cc: Contract file



## Attachment 2: Compliance – Arizona Legal Workers Act verification form



# **State of Arizona**

## **State Contractor Employment Record Verification Form and Employee Verification Worksheet**

**Complete and return within 30 days of receipt or as specified in cover letter to:**

The Arizona Department of Administration  
Arizona State Procurement Office  
100 North 15<sup>th</sup> Avenue, Suite 104  
Phoenix, Arizona 85007

A.R.S. §41-4401 requires as a condition of your contract verification of compliance by the contractor and subcontractors with the Federal Immigration and Nationality Act (FINA), all other Federal immigration laws and regulations, and A.R.S. § 23-214 related to the immigration status of its employees.

By completing and signing this form and attached Employee Verification Worksheet the contractor shall attest that it and all subcontractors performing work under the cited State contract meet all conditions contained herein. Failure to complete and submit this form and attached worksheet on or before the request date to the above cited address and/or the falsification of any information provided herein shall be considered a material breach of the contract.

Contract Number/State Agency/Division		
Name (as listed in the contract):		
Street Name and Number:		
City:	State:	Zip Code:

I hereby attest that:

1. The contractor complies with the Federal immigration and Nationality Act (FINA), all other Federal immigration laws and regulations, and A.R.S. §23-214 related to the immigration status of those employees performing work under this contract;
2. All subcontractors performing work under this contract comply with the Federal immigration and Nationality Act (FINA), all other Federal immigration laws and regulations, and A.R.S. §23-214 related to the immigration status of their employees; and
3. The contractor has identified all contractor and subcontractor employees who perform work under the contract on the attached Employee Verification Worksheet and has verified compliance with Federal Immigration and Nationality Act (FINA), all other Federal immigration laws and regulations, and A.R.S. §23-214.

Signature of Contractor (Employer) or Authorized Designee:
Printed Name:
Title:
Date: (month/day/year)

# State of Arizona, Employee Verification Worksheet

Contractor shall identify all contractor and subcontractor employees performing work under this contract and shall verify and certify that all employees working under this contract are in compliance with the Federal immigration and Nationality Act (FINA), all other Federal immigration laws and regulations, and A.R.S. § 23-214..

Contractor Name: \_\_\_\_\_ Authorized Signature: \_\_\_\_\_

State Contract Number: \_\_\_\_\_ Date: \_\_\_\_\_

(Please copy and complete as necessary.)

EMPLOYEE NAME - PLEASE TYPE OR PRINT	EMPLOYEE NAME - PLEASE TYPE OR PRINT

State of Arizona, Employee Verification Worksheet October 2008.

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